



WHY HAVE A SHAREHOLDERS' AGREEMENT?

Put simply, if your company has more than one shareholder, there should be a shareholders' agreement in place that governs the relationship between shareholders. It provides clarity as to what happens in certain situations and should prevent heartache and expense in the long term.

By having a shareholders' agreement in place, the shareholders will have already discussed and negotiated the different elements of the agreement. Any misunderstandings will have been raised and discussed before shareholders invest.

Shareholders' agreements can take any form but there are a number of issues that are covered in most. They are as follows:

- **The aim of the Company:** Shareholders will invest in a company on the basis that it carries out a specific business. A company can change its business but only with the agreement of the shareholders.
- **Decision making:** Does the shareholder have the right to appoint a director to the Board? Often matters that are fundamental to the constitution of the Company or material decisions in respect of the business have to be approved by all or a specific percentage of the shareholders.
- **Dividends:** Should any or a percentage of profits of the business be reinvested or should they be distributed as dividends?
- **Transfer of shares:** What happens if a shareholder wants to sell his shares? The other existing shareholders will usually be offered the opportunity to purchase those shares pro-rata to their shareholdings before the shares are offered to a third party.
- **Calculation of share price:** A method for calculating the price at which the shares are transferred should also be specified.
- **Funding:** How will the company be funded if it requires more funds for working capital? Will the existing shareholders be expected to invest more equity or will the company look to third party investors or loan finance?
- **Death or insolvency of a Shareholder:** What happens if a shareholder dies or becomes insolvent? Are the other shareholders happy for the shares to pass in accordance with his will/become an asset of a liquidator or should the shares be transferred to the other shareholders?
- **Non-compete:** Should shareholders be prevented from having interest in competing businesses or having roles in other businesses?
- **Deadlock:** If shareholders cannot agree on a matter, there are a number of ways that the situation can be resolved such as shareholders buying out the other shareholders or putting the company into liquidation.

For further information on shareholders' agreements or any other company commercial matter, please contact Will Bankes – 01492 860420 or william.bankes@gamlins.com

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